

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE:

CHRISTIE ELLEN ALKEBULAN,
Debtor

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, NATIONAL
ASSOCIATION FKA THE BANK OF NEW
YORK TRUST COMPANY, N.A. AS
SUCCESSOR TO JPMORGAN CHASE
BANK N.A. AS TRUSTEE RAMP 2004RS4,
Movant**

VS.

**CHRISTIE ELLEN ALKEBULAN, Debtor
and THOMAS POWERS, Trustee,
Respondents**

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CASE NO. 10-37756-SGJ-13

CHAPTER 13

HEARING DATE: June 23, 2011

HEARING TIME: 1:30 P.M.

MOTION FOR RELIEF FROM AUTOMATIC STAY OF ACT AGAINST PROPERTY
AS TO DEBTOR AND CODEBTOR

NOTICE: PURSUANT TO LOCAL BANKRUPTCY RULE 4001(b), YOU MUST FILE AN ANSWER TO THIS MOTION WITHIN FOURTEEN (14) DAYS OF THE DATE INDICATED IN THE CERTIFICATE OF SERVICE OF THIS MOTION. YOUR ANSWER SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE "ADEQUATELY PROTECTED" IF THE AUTOMATIC STAY IS TO BE CONTINUED. IF YOU DO NOT FILE AN ANSWER AS REQUIRED, THE ALLEGATIONS IN THIS MOTION SHALL BE DEEMED ADMITTED, UNLESS GOOD CAUSE IS SHOWN WHY THESE ALLEGATIONS SHOULD NOT BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT BY THIS MOTION MAY BE ENTERED BY DEFAULT.

PURSUANT TO LOCAL BANKRUPTCY RULE 4001(e), PLEASE TAKE NOTICE THAT, ABSENT COMPELLING CIRCUMSTANCES, EVIDENCE PRESENTED AT PRELIMINARY HEARINGS ON MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY WILL BE BY AFFIDAVIT ONLY AND THAT YOU MUST SERVE EVIDENTIARY AFFIDAVITS AT LEAST 48 HOURS IN ADVANCE OF SUCH HEARING UPON THE ABOVE-NAMED ATTORNEY AT THE ADDRESS SPECIFIED ABOVE. FAILURE OF AN ATTORNEY TO ATTEND A SCHEDULED AND NOTICED PRELIMINARY HEARING MAY BE GROUNDS FOR DEFAULT RELIEF REGARDLESS OF THE PRESENCE OR ABSENCE OF AFFIDAVITS.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW The Bank of New York Mellon Trust Company, National Association fka
The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee

Trustee RAMP 2004RS4¹, their successors and/or assigns ("Movant"), a secured creditor, to file this *Motion for Relief from Automatic Stay of Act Against Property* ("Motion") against Christie Ellen Alkebulan² ("Debtor") and Cranston Alkebulan ("CoDebtor") and in support thereof Movant would show the Court as follows:

Jurisdiction

1. On or about November 1, 2010, Debtor filed a voluntary petition under Chapter 13 of the Bankruptcy Code, and Thomas Powers was appointed Chapter 13 Trustee.

2. This Court has jurisdiction of this Motion by virtue of 11 U.S.C. §§105, 361, 362 and 1301, and 28 U.S.C. §§1334 and 157 and all other applicable rules and statutes affecting the jurisdiction of Bankruptcy Courts generally.

Debt and Collateral Description

3. A Note ("Note") in the original principal amount of \$59,300.00 dated February 23, 2004, was executed by Christie Taylor ("Borrower") to Ampro Mortgage Corporation. In connection therewith, Borrower and CoDebtor executed a Deed of Trust to Ampro Mortgage Corporation encumbering certain real property located at 1111 Winters Street, Dallas, Texas 75216 ("Property"). The Deed of Trust reflects that it was duly recorded.

4. Subsequently, all beneficial interest in the Deed of Trust was assigned and transferred to Movant.

5. Debtor is in default of the obligations owed to Movant by failing to make the installment payments when due and owing pursuant to the terms of the Note.

¹ **Error! Main Document Only.**GMAC Mortgage, LLC, is the servicer of the subject loan. The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank N.A. as Trustee RAMP 2004RS4 is the current owner of the subject loan.

² Debtor is also known as Christie Taylor.

6. As of April 28, 2011, the arrearage owed under the Note and Deed of Trust is as follows:

Payments			
<u>Number of Payments</u>	<u>Payment Amount</u>	<u>Payment Dates</u>	<u>Total</u>
2	\$561.87	3/1/2011 to 4/1/2011	\$1,123.74
FEES/CHARGES			
<u>Fee Type</u>	<u>Fee Amount</u>	<u>Total</u>	
Late Charges	\$37.48	\$37.48	
Suspense (unapplied funds)	\$<148.97>	\$<148.97>	
Total Post-Petition Arrearages as of April 28, 2011			\$1,012.25

Another monthly mortgage payment will become due on May 1, 2011.

7. As of April 28, 2011, the approximate principal balance owed by Debtor was \$54,609.21. This sum includes principal balance but does not include accrued interest, accrued late charges, escrow advances, and attorneys' fees incurred in connection with this bankruptcy case.

Lack of Adequate Protection

8. By failing to make the regular monthly installment payments due pursuant to the Note, the Debtor has not adequately protected Movant's interest in the Property. Cause exists therefore for termination of the automatic stay pursuant to 11 U.S.C. §§362(d) and 1301.

9. Movant has no remedy available other than to seek relief from the automatic stay.

10. Movant seeks relief for the purpose of exercising its remedies available under state law, including foreclosure of its mortgage against the CoDebtor and Debtor's interest in the Property. Movant further seeks relief in order to contact the Debtor by telephone or by written correspondence. Movant may at its option offer, provide and enter into a forbearance agreement, loan modification, refinance agreement or other loan workout / loss mitigation agreement.

11. Movant has had to retain counsel to represent it before this Court and is incurring legal expenses and attorneys' fees for which it is entitled to be reimbursed under the terms of the Note.

12. Movant requests that any order granting a motion for relief from automatic stay in accordance with Rule 4001(a)(3) not be stayed until the expiration of fourteen (14) days after the entry of the order.

Prayer

WHEREFORE, PREMISES CONSIDERED, Movant prays that, upon considering this Motion, the automatic stay will be terminated as to Debtor and CoDebtor with respect to Movant, thereby permitting Movant to pursue all available remedies to obtain possession and control of the Property to the exclusion of the Debtor. Alternatively, Movant prays that it be afforded adequate protection by: (a) having all payments presently due in this proceeding to Movant brought current; (b) reimbursing Movant for its reasonable attorneys' fees and expenses; and (c) granting Movant such other and further relief, at law and in equity, as is just.

Respectfully Submitted,

PITE DUNCAN, LLP

By: /s/ June A. Mann

June A. Mann , SBOT 12928400

ATTORNEY FOR MOVANT

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CERTIFICATE OF CONFERENCE AND CERTIFICATE OF SERVICE

I hereby certify that on April 29, 2011 at 3:39 p.m., Tracy Fink, an attorney in our office, left a detailed voice mail message for the Debtor's attorney regarding the filing of this Motion and the basis of said Motion. As of the date of the filing of this Motion, I have not received a return telephone call and assume this Motion to be opposed. I hereby certify that a true and correct copy of the foregoing *Motion for Relief from Automatic Stay of Act Against Property* has been served upon the following parties via electronic means through the Court's CM/ECF system or by pre-paid regular first class U.S. Mail on May 27, 2011.

By: /s/ June A. Mann

June A. Mann , SBOT 12928400

DEBTOR'S ATTORNEY
(via electronic notice)

Truman E. Coe, Jr.
2720 N. Stemmons Frwy.
Suite 1202, South Tower
Dallas, TX 75207

DEBTOR

Christie Ellen Alkebulan
1648 Bonnie View Rd.
Dallas, TX 75203

TRUSTEE
(via electronic notice)

Thomas Powers
125 E. John Carpenter Frwy., Suite 1100
Irving, TX 75062-2288

U. S. TRUSTEE
(via electronic notice)

U.S. Trustee
Department Of Justice
1100 Commerce Street - Room 976
Dallas, TX 75242-1496

CO-BORROWER

Cranston Alkebulan
1111 Winters Street
Dallas, TX 75216

PARTIES REQUESTING NOTICE AND/OR EFFECTED PARTIES
(via electronic notice if so designated for receipt of such in CM/ECF)

Joe M. Lozano (**via electronic notice**)
Brice, Vander Linden & Wernick, P.C.
9441 LBJ Freeway, Suite 350
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Lisa L. Cockrell (**via electronic notice**)
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